

**UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF MICHIGAN**  
**SOUTHERN DIVISION**

**IN RE: AUTOMOTIVE PARTS  
ANTITRUST LITIGATION**

Master File Case No. 12-md-02311

Honorable Marianne O. Battani

**IN RE: ALL CASES**

**THIS RELATES TO:  
DEALERSHIP ACTIONS  
END-PAYOR ACTIONS  
TRUCK AND EQUIPMENT DEALER  
ACTIONS**

**SANOH INDUSTRIAL CO., LTD. AND SANOH AMERICA, INC.'S  
MEMORANDUM IN OPPOSITION TO PLAINTIFFS' MOTION FOR AN  
ORDER DIRECTING DEFENDANTS TO PAY HALF OF THE  
PARTIES' COSTS RELATING TO OEM DISCOVERY**

**STATEMENT OF ISSUES**

Should this Court require Sanoh Industrial Co., Ltd. and Sanoh America, Inc. to pay costs for OEM discovery when Sanoh Industrial Co., Ltd. and Sanoh America, Inc. were not a part of the litigation when this discovery was requested and are in the early stages of litigating their cases?

**Answer:** No

Sanoh Industrial Co., Ltd. and Sanoh America, Inc. (collectively, “Sanoh”) join in Defendants’ Memorandum in Opposition to Plaintiffs’ Motion for an Order Directing Defendants to Pay Half of the Parties’ Costs Relating to OEM Discovery. In addition, Sanoh files the present motion to bring the Court’s attention to Sanoh’s specific circumstances.

Plaintiffs seek payment from Sanoh for discovery requests that were served, negotiated, and litigated years before Sanoh was ever served with a complaint in the Auto Parts litigation. In May 2017 the End-Payor Plaintiffs (“EPPs”) filed an amended complaint in the Automotive Steel Tubes litigation adding Sanoh Industrial and Sanoh America. *In re Automotive Steel Tubes*, Case No. 16-4003, May 24, 2017, Dkt. No. 20. This complaint was not served on both Sanoh Industrial and Sanoh America until February 2018. Exhibit A, Stipulation with EPPs. The Automobile Dealer Plaintiffs (“ADPs”) did not bring suit against Sanoh until March 28, 2018 when they amended their complaint by adding Sanoh as defendants. Service of the ADPs’ complaint upon Sanoh was not completed until just a few weeks ago on April 20, 2018. *In re Automotive Steel Tubes*, Case No. 16-4002, March 28, 2018, Dkt. No. 24, 28. The Truck and Equipment Dealer Plaintiffs (“TEDPs”) have not filed a complaint against any party in the Automotive Steel Tubes case.

It is Sanoh’s understanding that in January 2015, three years before Sanoh was ever a part of this litigation, the EPPs, ADPs, and TEDPs, together with a subset of the Defendants who were part of the auto parts litigation at that time, began coordinating their efforts to seek third-party discovery. Decl. of W. Reiss, ¶ 2 (ECF No. 1885). The parties served subpoenas on over 100 Original Equipment Manufacturers (“OEMs”) in July and August 2015. *Id.* at ¶ 3. After two years of negotiations and discussions between plaintiffs, defendants, and OEMs, the OEMs were ordered to produce certain documents in response to the parties’ requests in December

2016. *Id.* at ¶¶ 4-8. Sanoh had no involvement in or knowledge of the voluminous discovery requests or the ensuing negotiations. Sanoh was also not involved in any of the discussions regarding how this discovery that it did not request would be paid for.

The Automotive Steel Tubes cases have a long way to go before OEM discovery will be potentially useful for either the plaintiffs or for Sanoh. The EPP case is currently in the midst of briefing for the motion to dismiss, while the motion to dismiss for the ADP case is not due to be filed until July. Sanoh is far from being able to make informed decisions regarding what, if any, OEM discovery could prove useful in its defense. Moreover, there is not even a discovery plan in place in the Automotive Steel Tubes case.

For the reasons discussed in the Defendants' joint motion and because Sanoh was not a part of the Auto Parts Litigation for the entirety of the OEM discovery process, it would be patently unfair to require Sanoh to pay for discovery that Sanoh did not request, and that it is procedurally premature for Sanoh to consider.<sup>1</sup>

Sanoh respectfully asks the Court to deny the plaintiffs' motion.

Respectfully Submitted,

DATED: May 15, 2018

/s/ Rachel B. Peck  
Patrick F. Linehan (DC Bar No. 472183)  
Rachel B. Peck (DC Bar No. 998673)  
STEPTOE & JOHNSON LLP  
1330 Connecticut Avenue, NW  
Washington, DC 20036  
Telephone: (202) 429-3000  
Facsimile: (202) 429-3902  
plinehan@steptoe.com  
rpeck@steptoe.com

Rudiger L. Breitenacker  
BREITENECKER & ASSOCIATES

---

<sup>11</sup> Should litigation against Sanoh proceed to a point in which OEM discovery becomes relevant, Sanoh would be willing to revisit the issue of the extent to which it should share in the costs relating to that discovery.

45 Rockefeller Plaza, 20th Floor  
New York, NY 10111  
Telephone: (212) 332-7592  
Facsimile: (212) 202-5482  
rudi@balaw.us

*Counsel for Defendants Sanoh Industrial Co., Ltd  
and Sanoh America, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 15, 2018, I caused the foregoing *Sanoh Industrial Co., Ltd. and Sanoh America, Inc. Memorandum In Opposition To Plaintiffs' Motion For An Order Directing Defendants To Pay Half Of The Parties' Costs Relating To OEM Discovery* to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notifications of such filings to all counsel of record.

DATED: May 15, 2018

/s/ Rachel B. Peck

Patrick F. Linehan (DC Bar No. 472183)

Rachel B. Peck (DC Bar No. 998673)

STEPTOE & JOHNSON LLP

1330 Connecticut Avenue, NW

Washington, DC 20036

Telephone: (202) 429-3000

Facsimile: (202) 429-3902

plinehan@steptoe.com

rpeck@steptoe.com